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08/981087



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: ASSISTANT COMMISSIONER FOR PATENTS  
Washington, D.C. 20231

Copy

U.S. APPLICATION NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
08/981.087	ELMORE	1581.0200000
STERNE KESSLER GOLDSTEIN & FOX 1100 NEW YORK AVENUE NW SUITE 600 WASHINGTON DC 20005-3934		INTERNATIONAL APPLICATION NO. PCT/GB96/01409
DATE MAILED: 08/28/98		PRIORITY DATE: 06/12/95

NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371  
AND 37 CFR 1.494 OR 1.495

1. The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as ☐ a Designated Office (37 CFR 1.494), ☒ an Elected Office (37 CFR 1.495), has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

2. The United States Application Number assigned to the application is shown above and the relevant dates are:

MAY 27 1998  
35 U.S.C. 102(e) DATE

MAY 27 1998  
DATE OF RECEIPT OF  
35 U.S.C. 371 REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. THE DATE APPEARING ON THE FILING RECEIPT AS THE "FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371(C) REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE. The filing date of the above identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363). Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

3. ☒ A request for immediate examination under 35 U.S.C. 371(f) was received on Dec 12, 1997 and the application will be examined in turn.

4. The following items have been received:

- ☒ U.S. Basic National Fee.
- ☒ Copy of the international application in:
  - ☐ a non-English language.
  - ☒ English.
- ☐ Translation of the international application into English.
- ☒ Oath or Declaration of inventors(s) for DO/EO/US.
- ☐ Copy of Article 19 amendments. ☐ Translation of Article 19 amendments into English.
 

The Article 19 amendments ☐ have ☐ have not been entered.
- ☒ The International Preliminary Examination Report in English and its Annexes, if any.
- ☐ Copy of the Annexes to the International Preliminary Examination Report (IPER).
 

☐ Translation of Annexes to the IPER into English.

The Annexes ☒ have ☐ have not been entered.
- ☐ Preliminary amendment(s) filed \_\_\_\_\_ and \_\_\_\_\_.
- ☐ Information Disclosure Statement(s) filed \_\_\_\_\_ and \_\_\_\_\_.
- ☐ Assignment document.
- ☐ Power of Attorney and/or Change of Address.
- ☐ Substitute specification filed \_\_\_\_\_.
- ☐ Statement Claiming Small Entity Status.
- ☐ Priority Document.
- ☒ Copy of the International Search Report ☒ and copies of the references cited therein.
- ☒ Other: 306

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

John Anderson  
Telephone: (703) 308-9116

will be part of the file before the examiner and need not be resubmitted in the continuing application to have the information considered and listed on the patent.

**2. Continuation Applications or Divisional Applications, Filed Under 37 CFR 1.53(b) Or Filed Under Former 37 CFR 1.60, Or Continuation-In-Part Applications Filed Under 37 CFR 1.53(b)**

The examiner will consider information which has been considered by the Office in a parent application when examining (A) a continuation application filed under 37 CFR 1.53(b) or filed under former 37 CFR 1.60, (B) a divisional application filed under 37 CFR 1.53(b) or filed under former 37 CFR 1.60, or (C) a continuation-in-part application filed under 37 CFR 1.53(b). Such information need not be resubmitted in the continuing application unless the applicant desires the information to be printed on the patent.

**3. Requests For Continued Examination (RCE) Under 37 CFR 1.114**

Information which has been considered by the Office in the application before the filing of a RCE will be part of the file before the examiner and need not be resubmitted to have the information considered by the examiner and listed on the patent.

**B. IDS That Has Not Been Considered (1) In The Parent Application, Or (2) Prior To The Filing Of A Request For Continued Examination**

**1. Continued Prosecution Applications Filed Under 37 CFR 1.53(d)**

Information filed in the parent application that complies with the content requirements of 37 CFR 1.98 will be considered by the examiner in the CPA. No specific request from the applicant that the previously submitted information be considered by the examiner is required.

**2. File Wrapper Continuing Application Filed Under Former 37 CFR 1.62**

For FWC applications filed prior to December 1, 1997 under former 37 CFR 1.62, in order to ensure consideration of information complying with the content requirements of 37 CFR 1.98 previously submit-

ted, but not considered, in a parent application, applicant must either specifically request that the previously submitted information be considered in the FWC or resubmit the information in the FWC in compliance with 37 CFR 1.97 and 37 CFR 1.98.

**3. Continuation Applications or Divisional Applications, Filed Under 37 CFR 1.53(b) Or Filed Under Former 37 CFR 1.60, Or Continuation-In-Part Applications Filed Under 37 CFR 1.53(b)**

For these types of applications, in order to ensure consideration of information previously submitted, but not considered, in a parent application, applicant must resubmit the information in the continuing application in compliance with 37 CFR 1.97 and 37 CFR 1.98.

**4. Requests For Continued Examination Under 37 CFR 1.114**

Information filed in the application in compliance with the content requirements of 37 CFR 1.98 before the filing of a RCE will be considered by the examiner after the filing of the RCE. For example, an applicant filed an IDS in compliance with 37 CFR 1.98 after the mailing of a final Office action, but the IDS did not comply with the requirements of 37 CFR 1.97(d)(1) and (d)(2) and therefore, the IDS was not considered by the examiner. After applicant files a RCE, the examiner will consider the IDS filed prior to the filing of the RCE. For more details on RCE, see MPEP § 706.07(h).

**II. NATIONAL STAGE APPLICATIONS**

The examiner will consider the documents cited in the international search report in a PCT national stage application when the Form PCT/DO/EO/903 indicates that both the international search report and the copies of the documents are present in the national stage file. In such a case, the examiner should consider the documents from the international search report and indicate by a statement in the first Office action that the information has been considered. There is no requirement that the examiner list the documents on a PTO-892 form.

In a national stage application, the following form paragraphs may be used where appropriate to notify

applicant regarding references listed in the search report of the international application:

**¶ 6.53 References Considered in 37 U.S.C. 371 Application Based Upon Search Report - Prior to Allowance**

The references cited in the Search Report [1] have been considered, but will not be listed on any patent resulting from this application because they were not provided on a separate list in compliance with 37 CFR 1.98(a)(1). In order to have the references printed on such resulting patent, a separate listing, preferably on a PTO-1449 or PTO/SB/08A and 08B form, must be filed within the set period for reply to this Office action.

**Examiner Note:**

1. This form paragraph may be used for PCT National Stage applications submitted under 35 U.S.C. 371 where the examiner has obtained copies of the cited references. For applications filed from US, JPO or EPO search authorities, the copies of the references should be supplied by those offices under the trilateral agreement. However, if receipt of such copies is not indicated on the PCT/DO/EO/903 form in the file, burden is on the applicant to supply copies for consideration. See MPEP § 1893.03(g).
2. Instead of using this form paragraph, the examiner may list the references on a PTO-892, thereby notifying the applicant that the references have been considered and will be printed on any patent resulting from this application.
3. This form paragraph should only be used prior to allowance when a statutory period for reply is being set in the Office action.
4. If the application is being allowed, form paragraph 6.54 should be used with the Notice of Allowability instead of this form paragraph.

**¶ 6.54 References Considered in 37 U.S.C. 371 Application Based Upon Search Report - Ready for Allowance**

The references cited in the Search Report [1] have been considered, but will not be listed on any patent resulting from this application because they were not provided on a separate list in compliance with 37 CFR 1.98(a)(1). In order to have the references printed on such resulting patent, a separate listing, preferably on a PTO-1449 or PTO/SB/08A and 08B form, must be filed within ONE MONTH of the mailing date of this communication. NO EXTENSION OF TIME WILL BE GRANTED UNDER EITHER 37 CFR 1.136(a) OR (b) to comply with this requirement.

**Examiner Note:**

1. See the Examiner Note for form paragraph 6.53.

**¶ 6.55 References Not Considered in 37 U.S.C. 371 Application Based Upon Search Report**

The listing of references in the Search Report is not considered to be an information disclosure statement (IDS) complying with 37 CFR 1.98. 37 CFR 1.98(a)(2) requires a legible copy of: (1) each U.S. and foreign patent; (2) each publication or that portion which caused it to be listed; (3) for each cited pending U.S. application, the application specification including claims, and any

drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion; and (4) all other information, or that portion which caused it to be listed. In addition, each IDS must include a list of all patents, publications, applications, or other information submitted for consideration by the Office (see 37 CFR 1.98(a)(1) and (b)), and MPEP § 609 A(1) states, "the list ... must be submitted on a separate paper." Therefore, the references cited in the Search Report have not been considered. Applicant is advised that the date of submission of any item of information or any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the IDS, including all "statement requirements of 37 CFR 1.97(e). See MPEP § 609 subsection III C(1).

**Examiner Note:**

1. This form paragraph may be used in National Stage applications submitted under 35 U.S.C. 371 where the international searching authority was not the US, EPO or JPO.

### III. MINIMUM REQUIREMENTS FOR AN INFORMATION DISCLOSURE STATEMENT

#### A. Content

An information disclosure statement must comply with the provisions of 37 CFR 1.98 as to content for the information listed in the IDS to be considered by the Office. Each information disclosure statement must comply with the applicable provisions of subsection III.A(1), A(2), and A(3) below.

#### A (1) List of All Patents, Publications, U.S. Applications, or Other Information

Each information disclosure statement must include a list of all patents, publications, U.S. applications, or other information submitted for consideration by the Office.

37 CFR 1.98(b) requires that each item of information in an IDS be identified properly. U.S. patents must be identified by the inventor, patent number, and issue date. U.S. patent application publications must be identified by the applicant, patent application publication number, and publication date. U.S. applications must be identified by the inventor, the eight digit application number (the two digit series code and the six digit serial number), and the filing date. If a U.S. application being listed in an IDS has been issued as a patent, the applicant should list the patent in the IDS instead of the application. Each foreign patent or published foreign patent application must be identified by

92.  
In re Patent Application of

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Atty Dkt. 1498-133

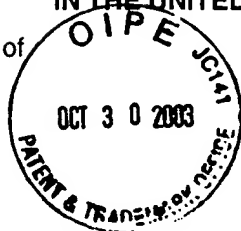
C# M#

Elmore et al

Serial No. 08/981,087

Filed: May 27, 1998

Title: TYPE F BOTULINUM TOXIN AND USE THEREOF



Group Art Unit: 1647

Examiner: Turner

Date: October 30, 2003

**OFFICE OF PATENT PUBLICATIONS**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-

Sir:

**RESPONSE/AMENDMENT/LETTER**

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

☐ **C Correspondence Address Indication Form Attached.**

**Fees are attached as calculated below:**

Total effective claims after amendment 0 minus highest number  
previously paid for 20 (at least 20) = 0 x \$ 18.00 \$ 0.00

Independent claims after amendment 0 minus highest number  
previously paid for 3 (at least 3) = 0 x \$ 86.00 \$ 0.00

If proper multiple dependent claims now added for first time, add \$290.00 (ignore improper) \$ 0.00

Petition is hereby made to extend the current due date so as to cover the filing date of this  
paper and attachment(s) (\$110.00/1 month; \$420.00/2 months; \$950.00/3 months) \$ 0.00

Terminal disclaimer enclosed, add \$ 110.00 \$ 0.00

☐ First/second submission after Final Rejection pursuant to 37 CFR 1.129(a) (\$770.00) \$ 0.00

☐ Please enter the previously unentered, filed

☐ Submission attached

**Subtotal \$ 0.00**

If "small entity," then enter half (1/2) of subtotal and subtract -\$ 0.00

☐ Applicant claims "small entity" status. ☐ Statement filed herewith

Rule 56 Information Disclosure Statement Filing Fee (\$180.00) \$ 0.00

Assignment Recording Fee (\$40.00) \$ 0.00

Other: Request; Copy of International Search Report dated 10/16/96; Copy of Notification of Acceptance  
dated 8/28/98; PTO-1449 (listing documents from International Search Report dated 10/1/96); Copy of  
MPEP § 609, pages 600-119 and 600-120 (August 2001) 0.00

**TOTAL FEE ENCLOSED \$ 0.00**

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

1100 North Glebe Road, 8<sup>th</sup> Floor  
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BJS:plb

NIXON & VANDERHYE P.C.  
By Atty: B. J. Sadoff, Reg. No. 36,663

Signature: 